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October 24, 2022

Bob Woodward

By e-mail to: bob.woodward@washpost.com

Tracy Woelfel, Copyright Agent
Simon & Schuster, Inc.
1230 Avenue of the Americas, 17th Floor
New York, NY 10020

By e-mail to: Tracy.woelfel@simonandschuster.com

Re: Notice of Copyright Infringement / The Trump Tapes

Dear Ms. Wolfel and Mr. Woodward,

We have been engaged by President Donald J. Trump (“President Trump”) to resolve a certain dispute that has arisen. Last week, President Trump, along with most of the public, learned that on October 25, 2022, Simon & Schuster Audio Original (“Simon & Schuster”) is set to publish an audiobook entitled “The Trump Tapes”, seemingly comprised of Bob Woodward’s twenty (20) interviews with President Donald J. Trump from 2016 to 2020 and features more than eight hours of “raw” interviews with President Trump (“Audiobook”).

President Trump was understandably shocked as never once had Mr. Woodward mentioned his intentions of releasing the interviews in such a medium and neither sought nor obtained the appropriate and customary releases, were that to have been the case. Importantly, as one who has appeared in thousands of broadcast interviews, President Donald J. Trump should have been afforded the professional courtesy of articulating his views for the purposes of broadcast with appropriate modulation and tone color.

For any audiobook, it is imperative in the industry that the performer grant the publisher the right to use that performer’s voice. Not all voices are made equal, which is reflected in Mr. Woodward’s own quotes about President Donald J. Trump’s interviews, and Simon & Schuster’s promotion of the same. Mr. Woodward, with the knowledge and encouragement of Simon & Schuster, trumpets that he, “decided to take this unusual step of releasing these recordings after relistening in full to all 20 interviews,”¹ because “[h]earing Trump speak is a

¹ <https://www.simonandschuster.com/books/The-Trump-Tapes/Bob-Woodward/9781797124735>



completely different experience to reading the transcripts or listening to snatches of interviews on television or the internet.”²

Contrary to well-established publication practices, absent any releases or licenses being requested, provided, or executed granting either Simon & Schuster or Mr. Woodward any rights to publish the audio recordings of the subject interviews, releasing recordings belonging to President Donald J. Trump is a direct infringement of the copyright protections afforded to him. While President Donald J. Trump is not seeking an injunction against the publication of the unedited tapes, we fully reserve his rights and shall pursue them, if necessary to the fullest extent of the law.

In an interview on September 29, 2020, Mr. Woodward described President Donald J. Trump’s voice as “the most recognizable voice in the world, perhaps”³ and such recordings vest clear rights in the owner of such a voice. In *Swatch Grp. Mgmt. Servs. Ltd. v. Bloomberg L.P.*, 808 F. Supp. 2d 634, 638–39 (S.D.N.Y. 2011), the court held that in a broadcast conference call of executives “on a more basic level, the senior executives’ unique pronunciation of words and their inflection and tone of voice, taken together, constitute “something irreducible, which is one man’s alone,” and that “he may copyright”—at least in the form of a sound recording. *Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, 250, 23 S.Ct. 298, 47 L.Ed. 460 (1903) (Holmes, J.); see *Nimmer & Nimmer*, § 2.10[A][2][a] (“The emphasis or the shading of a musical note, the tone of voice, the inflection, the timing of a vocal rendition, musical or spoken, can all be original with the performer.”).

Even without being the most recognized voice in the world, the interview is itself copyrightable, as an interview is subject to copyright law at the moment it is recorded, whether by hand or by machine.⁴ Absent a written agreement otherwise, the interview may be owned by the interviewer and the interviewee jointly.⁵ Even were a court to hold that this the copyright is jointly owned, the transferor has a clear duty to account to the other joint owner for any profits received. See *Davis v. Blige*, 505 F.3d 90, 98 (2d Cir. 2007). Notwithstanding the raft of admissions as to the uniqueness of the Audiobook on account of the utilization of President Donald J. Trump’s voice together with the actual value of his voice and interpretation, Mr. Woodward and Simon & Shuster are not content with just using that which belongs to President Trump, but are seeking to profit from the Audiobook, without any accounting to President Trump as required by law.

² <https://www.simonandschuster.com/books/The-Trump-Tapes/Bob-Woodward/9781797124735>

³ <https://www.youtube.com/watch?v=CzA2YX1y8E4>

⁴ See 17 U.S.C. § 102(a) (2006) (“Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.”)



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In lieu of President Trump's pursuit of his legal remedies under the Copyright Act for the ongoing infringement, including recovery of actual damages, statutory damages, and costs and attorney's fees, President Trump will accept a resolution that includes the following key points:

- (1) Simon & Shuster and Mr. Woodward will account to President Trump for 100% of all gross profits, inclusive of disgorgement of any advances from Simon & Shuster to Mr. Woodward.
- (2) Simon & Shuster and Mr. Woodward will provide originals of all master recordings to President Trump.
- (3) Simon & Shuster and Mr. Woodward will provide assignment to President Trump of any applications on the Copyright Register regarding the Audiobook.

We anticipate that you or your legal representatives will contact the undersigned within seven (7) days to engage constructively. Failing which, we stand ready to protect President Donald J. Trump's valuable voice rights.

All rights reserved.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Robert Garson', with a small dot at the end.

Robert Garson

cc: Yanina Zilberman